

**Final Order Denying Refund: 01-20200329  
Indiana Individual Income Tax  
For the Tax Year 2019**

**NOTICE:** IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Final Order Denying Refund.

### HOLDING

Individual was responsible for additional Indiana income tax for the 2019 tax year because Individual's documents failed to substantiate expenses claimed on his Schedule C.

### ISSUE

#### **I. Indiana Individual Income Tax - Burden of Proof.**

**Authority:** IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; IC § 6-8.1-5-4; *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Indiana Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer protests the Department's assessment of individual income tax for 2019.

### STATEMENT OF FACTS

Taxpayer is an Indiana resident who filed his 2019 Indiana Full-Year Resident Individual Income Tax Return (IT-40 Form) in 2020 requesting a refund. The Indiana Department of Revenue ("Department") reviewed Taxpayer's filing and requested that Taxpayer provide documents to substantiate expenses claimed on his return, and itemize the expenses claimed on the return. Taxpayer did not respond to the Department's request.

The Department subsequently disallowed the expenses claimed. As such, the Department concluded that Taxpayer owed additional Indiana state and county income tax and reduced Taxpayer's originally claimed refund.

Taxpayer timely protested the refund reduction. Taxpayer requested that the Department make the determination without an administrative hearing. This Final Order Denying Refund ensues and addresses Taxpayer's protest. Additional facts will be provided as necessary.

#### **I. Indiana Individual Income Tax - Burden of Proof.**

### DISCUSSION

Taxpayer filed an IT-40 claiming a refund. The Department assessed Taxpayer additional income tax, thus reducing his requested refund, because Taxpayer failed to substantiate losses claimed on his 2019 Schedule C. As part of his protest of this refund reduction, Taxpayer submitted additional documents, requesting that the Department make the final determination based on the information submitted. The issue is whether Taxpayer demonstrated that he was entitled to the claimed losses, which directly affect the amount of refund available for 2019, the 2019 IT-40's requested refund.

Indiana mandates that every person who is subject to a listed Indiana tax must keep books and records, including all source documents, "so that the [D]epartment can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records referred to in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks." IC § 6-8.1-5-4(a). "If the [D]epartment reasonably believes that a person has not reported the proper amount of tax

due, the [D]epartment shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the [D]epartment." IC § 6-8.1-5-1(b).

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). "Each assessment and each tax year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). Thus, the taxpayer is required to provide documentation explaining and supporting his challenge that the Department's assessment is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012). Also, "all statutes are presumptively constitutional." *Indiana Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 587 (Ind. 2014) (citing *UACC Midwest, Inc. v. Indiana Dep't of State Rev.* 629 N.E.2d 1295, 1299 (Ind. Tax Ct. 1994)). When an agency is charged with enforcing a statute, the jurisprudence defers to the agency's reasonable interpretation of that statute "over an equally reasonable interpretation by another party." *Caterpillar, Inc.*, 15 N.E.3d at 583.

Indiana imposes a tax "on the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC § 6-3-2-1(a). To efficiently and effectively compute what is considered the resident/taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayer's taxable income and to calculate what would be his or her Indiana income tax after applying certain additions and subtractions to that starting point, with modifications thereafter.

In this instance, during the initial review of Taxpayer's 2019 electronic filing, the Department found that Taxpayer claimed business losses at the federal level, which in turn, reduced Taxpayer's income subject to Indiana and local income tax. Because Taxpayer failed to respond to the Department's request for additional documents to verify the expenses, Taxpayer's losses were disallowed. To support his protest, Taxpayer offered his 2019 Annual Profit and Loss Statement in addition to the page 1 of his 2019 Schedule C and Schedule 1 (to his federal return).

Upon review, however, Taxpayer's position is incorrect. Specifically, Taxpayer's Annual Profit and Loss Statement simply summarized Taxpayer's monthly revenue, cost of goods sold, and supply expenses. Taxpayer's Annual Profit and Loss Statement alone was not sufficient to substantiate Taxpayer's losses claimed on his 2019 filing. Without verifiable source documents, which may "include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks" as required under IC § 6-8.1-5-4(a), the Department is not able to agree that Taxpayer met his burden of proof.

In short, given the totality of the circumstances, in the absence of verifiable supporting document to substantiate that Taxpayer correctly reported his losses, the Department is not able to agree that Taxpayer met his burden of demonstrating that he is entitled to the full refund requested.

### FINDING

Taxpayer's protest is respectfully denied.

March 2, 2021

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